



## CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 23, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0054

### Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Unfounded

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### EXECUTIVE SUMMARY:

The Complainant alleged that Named Employee #1 (NE#1) used unauthorized force during the Complainant's arrest.

### ADMINISTRATIVE NOTE:

On July 20, 2023, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

### SUMMARY OF INVESTIGATION:

On February 4, 2023, the Complainant left a voicemail at OPA alleging that NE#1 shoved him against concrete, injuring the Complainant's nose, eyebrow area, knee, back, and other areas. The Complainant said he required medical attention, including sutures. He left a phone number to contact him. OPA opened an investigation, including interviewing NE#1 and reviewing the complaint, incident report, use of force documents, and body-worn video.

Computer-aided dispatch records showed that NE#1 and other officers responded to a domestic violence-related burglary call on February 1, 2023. The dispatcher's remarks noted:

*SECOND-HAND INFO: 1 MALE BROKE INTO THIS UNIT AND NOW ATTEMPTING TO BUZZ THE  
OCCUPANT OF [APARTMENT NUMBER] SUSPECT IS [EX-BOYFRIEND] OF THE RESIDENT, NO  
SEEN [WEAPONS], [POSSIBLY INTOXICATED], [UNKNOWN] TIME DELAY*

NE#1's body-worn video (BWV) showed the Complainant, his dog, and Community Member #1 (CM#1) outside the incident location as NE#1 arrived. NE#1 engaged the Complainant, who was cooperative. The Complainant told NE#1 he was inside Community Member #2's (CM#2)—the Complainant's ex-partner—apartment earlier looking for CM#2, despite not being on the lease or having a key. The Complainant walked away. NE#1 said, "You are not free to go," while trying to grab his arm. NE#1 grabbed the Complainant's left arm and his coat's hood and repeated, "You're not free to go," and "You're not leaving." NE#1 radioed for backup as the Complainant protested the detention and pulled away. NE#1 asked CM#1 to take the dog before he struggled to detain the Complainant. NE#1's BWV is dark during



the struggle. Seconds later, the Complainant is shown prone with his left hand behind his back as NE#1 appears prepared to handcuff him. However, the Complainant started struggling again, causing the BWV to go dark. When the BWV clears, an officer tells the Complainant he is under arrest and to “Put your hand behind your back.” An officer helped NE#1 handcuff the Complainant.

Witness Employee #1 (WE#1)—a sergeant—interviewed CM#1. CM#1 said she came home—the incident location—and found the Complainant pressing buttons on the building’s callbox. CM#1 did not know the Complainant prior. The Complainant followed CM#1 into the building, saying he was looking for his partner. CM#1 called the Complainant’s partner for him, but it went to voicemail. CM#1 said the Complainant grew upset. CM#1 said she went to her apartment and called 9-1-1. CM#1 did not think the Complainant was dangerous but that he was possibly a danger to himself. CM#1 re-engaged the Complainant, went outside with him, offered him a cigarette, and told him help was on the way. CM#1 said NE#1 arrived and asked the Complainant questions, while another officer went to CM#2’s unit and found the front door kicked in. CM#1 said the Complainant tried walking away, but NE#1 grabbed him and told him he was not free to leave. CM#1 said that as NE#1 struggled with the Complainant, the Complainant lost footing, causing both to hit the pavement. CM#1 said, “Personally, what I saw, I don’t believe, rises to the level of any sort of misconduct or abuse on the side of the police. If he had not been resisting, he would not have fallen down.” CM#1 also reported seeing officers recover “an unsheathed kitchen knife” from the Complainant’s pocket.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegation #1**

##### ***8.200 - Using Force (1) Use of Force: When Authorized***

The Complainant alleged that NE#1 used unauthorized force to detain him.

An officer’s use of force must be objectively reasonable, necessary, and proportional. SPD Policy 8.200(1). Officers shall only use “objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective.” Whether force is reasonable depends “on the totality of the circumstances” known to the officers balanced against “the rights of the subject, in light of the circumstances surrounding the event.” SPD Policy 8.050. Reasonableness must consider that officers are often forced to make “split-second decisions” under tense and dynamic circumstances. *Id.* There are several factors to weigh when evaluating reasonableness. *See id.* Force is necessary where “no reasonably effective alternative to the use of force appeared to exist” and “the amount of force used was reasonable to effect the lawful purpose intended.” *Id.* Last, the force used must be proportional to the threat posed to the officer. *Id.*

Here, NE#1 tried to detain the Complainant during a domestic violence-related burglary primary investigation. While NE#1’s BWV did not capture his entire interaction with the Complainant due to the Complainant’s resistance obscuring portions, the clear parts were consistent with NE#1’s use of force statement and OPA interview. Moreover, CM#1—an independent witness—corroborated NE#1’s account. NE#1 and CM#1 suggested that the Complainant appeared inebriated and caused himself and NE#1 to fall as the Complainant pulled away from a lawful detention.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**